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In the Supreme Court of the United States

OCTOBER TERM, 1953

RAY BROOKS, PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD

**ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE NINTH
CIRCUIT**

**MEMORANDUM FOR THE NATIONAL LABOR
RELATIONS BOARD**

In the Supreme Court of the United States

OCTOBER TERM, 1953

No. 536

RAY BROOKS, PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD

*ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE NINTH
CIRCUIT*

MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD

The Acting Solicitor General files this memorandum on behalf of the National Labor Relations Board, and states that the Government does not oppose the granting of the writ of certiorari sought herein.

Although we believe the decision of the court below is, for the reasons summarized therein, correct in holding that a Board certification of bargaining representatives is normally operative and

binding for a reasonable period of time despite any intervening shift in employee sentiment as to their choice of bargaining representative, the decision is in express conflict with the decisions of the Court of Appeals for the Sixth Circuit in *National Labor Relations Board v. Vulcan Forging Co.*, 188 F. 2d 927, and *Mid-Continent Petroleum Corporation v. National Labor Relations Board*, 204 F. 2d 613, certiorari denied, 346 U.S. 856.

As petitioner states, the question presented is of major importance in the administration of the National Labor Relations Act. It is imperative that employers, labor organizations, and employees know in their dealings with each other whether a Board certification of bargaining representatives is operative for a reasonable period of time or whether the employees may repudiate their duly elected representative at will. None of these parties can be certain of the effect of a Board certification upon their rights and obligations under the Act unless the conflict of decisions on this question is resolved. In the absence of a definitive determination of the issue by this Court the Board will unavoidably be forced to adhere to the Sixth Circuit's ruling in cases arising in that Circuit while at the same time adhering to its normal rule that a certification is operative for a reasonable period of time in the other circuits which have generally approved the Board's rule.

Because of the conflict of decisions and the importance of the issue, we do not oppose the granting of a writ of certiorari and respectfully urge that the writ be granted.

Respectfully submitted,

ROBERT L. STERN,
Acting Solicitor General.

GEORGE J. BOTT,
General Counsel,
National Labor Relations Board.

FEBRUARY, 1954.